

GOOD FAITH TO MEET THE COMPETITION OF ANOTHER RETAILER OR WHOLESALER WHO IS RENDERING THE SAME TYPE OF SERVICE AS THE SELLER, IF THE PRICE OF THE COMPETITOR WHICH THE SELLER DESIRES TO MEET IS LAWFUL.

(B) LAWFUL PRICE OF COMPETITION.

FOR PURPOSES OF SUBSECTION (A) (5) OF THIS SECTION, THE PRICE OF CIGARETTES SOLD UNDER SUBSECTIONS (A) (1) THROUGH (4) OF THIS SECTION IS NOT THE LAWFUL PRICE OF A COMPETITOR.

(C) CALCULATING BASIC COST.

IN CALCULATING THE BASIC COST OF CIGARETTES PURCHASED AT A SALE UNDER SUBSECTIONS (A) (1) THROUGH (4) OF THIS SECTION OR AT ANY OTHER SALE OUTSIDE THE ORDINARY CHANNELS OF TRADE, A RETAILER OR WHOLESALER SHALL USE, INSTEAD OF INVOICE COSTS, THE REPLACEMENT COST OF THE CIGARETTES BASED ON THE QUANTITY LAST PURCHASED BY HIM THROUGH THE ORDINARY CHANNELS OF TRADE.

REVISOR'S NOTE: This section presently appears as Art. 83, §121.

In subsection (a) (5), the present examples of "service" — "i.e., 'cash and carry' or 'service'" — are deleted as unnecessary.

The only other changes are in style.

11-503. SPECIAL COST PROVISIONS.

(A) WHOLESALE SALE OF CIGARETTES ON CASH AND CARRY BASIS.

IN A WHOLESALE SALE OF CIGARETTES, THE PRESUMPTIVE WHOLESALE MARKUP OF 5 PERCENT PROVIDED FOR IN §11-501(E) MAY BE REDUCED BY 2 CENTS FOR EACH CARTON OF 200 CIGARETTES, IF:

(1) THE CIGARETTES ARE NOT DELIVERED UNLESS THEIR FULL PRICE IS RECEIVED BY THE WHOLESALER AT OR BEFORE DELIVERY; AND

(2) THE PURCHASER PERFORMS OR PAYS FOR THE CARTAGE COST OF THE CIGARETTES TO THE PLACE OF BUSINESS OF THE PURCHASER.

(B) RETAILER OR VENDING MACHINE OPERATOR RECEIVING WHOLESALER'S DISCOUNTS.

(1) IN THE ABSENCE OF SATISFACTORY PROOF OF A LESSER AGGREGATE COST OF DOING BUSINESS, A VENDING